



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,305	06/15/2006	Richard Persson	1027651-000520	3216
21839 7590 06/08/2009 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER DEUBLE, MARK A	
			ART UNIT 3651	PAPER NUMBER
			NOTIFICATION DATE 06/08/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	Application No. 10/583,305	Applicant(s) PERSSON, RICHARD	
	Examiner MARK A. DEUBLE	Art Unit 3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 7 and 10-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “30” has been used to designate both the belt in Fig. 3 and the carrier member in Fig. 2a. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8-9 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Frulio (EP 1123886).

Frulio shows an apparatus that could be used for changing the orientation of a number of packaging containers in motion in a filling machine from a first orientation to a second orientation at a right angle to the first orientation. The apparatus includes a linear magnetic

Art Unit: 3651

induction conveyor 9/10 provided with a plurality of carriers 21 to which a unit carrier 41 is connected. The carrier is made up of a first carrier member 31 and a second carrier member 25 which are displaceable relative to each other in a first direction perpendicular to the direction of conveyance. The carrier unit is rotatably connected to each of the carrier members at via a shaft 40 journaled in the second carrier member and a pin 36 extending from within the carrier unit to the second carrier through a track 37 provided in the second carrier member. The pin and the shaft are spaced at a distance from each other in a second direction transverse to the first direction so that displacement of one of the carrier members in relation to the other entails a rotation of the carrier unit about the axis of the shaft which corresponds to a change of orientation of the packaging container from the first to the second orientation. The axis of the shaft 64 is aligned with the point of gravity of a container supported on the carrier unit so that the point of gravity of the packaging container thereby maintains substantially the same direction of movement and speed from the first to the second orientation. Thus Frulio shows all the structure required by claims 1-4, 8, and 19 and which operates with all the steps required by claim 17.

The carrier unit includes a pair of finger portions 44 that are equidistant from the shaft so that they are adapted to carry a package container in a position with its point of gravity centered over the shaft. If the containers had corner flats pointing straight out from the sides of packages having the same width as the packages illustrated in Figs. 5d and 5b, the carrier unit would be adapted to carry the package under the corner flaps. Thus Frulio has all the structure required by claims 5-6 and 18.

The conveyor includes a first looped track formed by guides 10 and a second and third looped tracks 35 illustrated in dashed lines in Fig. 1. The first track guides the second carrier

Art Unit: 3651

member and the second track guides the first carrier member. The second track includes a switching section that causes the first carrier member to move in from the third track to the second track thereby permitting at least one of the carrier members to change tracks as required by claim 9.

*Allowable Subject Matter*

4. Claims 7 and 10-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Special attention should be paid to Russell et al. (US 4,330,288) if applicant attempts to amend around Frulio in a way that broadens any aspects of the claims indicated as containing allowable subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. DEUBLE whose telephone number is (571)272-6912. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Deuble/  
Primary Examiner  
Art Unit 3651

md